

# Appendix A

## WORK CONTRACTS, CHILD LABOR LAWS, LIABILITY AND INSURANCE

### WORK CONTRACTS

#### Education Training Agreement -

Students and employers participating in an approved youth apprenticeship program must have a **signed Education/Training Agreement (ETA) on file with both the school and the employer**. Employers without a valid ETA may be assessed (a) double compensation in the event of injury on the job, and/or (b) fines ranging from \$25 to \$1,000 for every day without a permit for a first offense to \$250 to \$5,000 for every day without a permit for a second offense within a five year period. The Local Youth Apprenticeship Coordinator will provide the employer with a copy of the ETA. This form is also available from the Department of Workforce Development at [http://dwd.wisconsin.gov/youthapprenticeship/forms\\_pubs.htm](http://dwd.wisconsin.gov/youthapprenticeship/forms_pubs.htm).

#### Work Permits -

Students and employers participating in an approved youth apprenticeship program do not need to obtain a separate work permit for the work to be performed as a part of the youth apprenticeship program, **although it is highly recommended**. If employers hire the youth apprentices to perform other work duties outside of their youth apprenticeship duties, a work permit will be required. Employers without a valid work permit (if applicable) may be assessed (a) double compensation in the event of injury on the job, and/or (b) fines ranging from \$25 to \$1,000 for every day without a permit for a first offense to \$250 to \$5,000 for every day without a permit for a second offense within a five year period.

### CHILD LABOR LAWS

Youth apprentices enrolled in approved youth apprenticeship programs and their employers are subject to all state and federal child labor laws regarding the employment of minors. The Department of Workforce Development (DWD) will review all statewide youth apprenticeship curriculum for compliance with the child labor laws and will clarify the laws whenever necessary to allow for program implementation. Youth apprentices **are allowed** to work in **some prohibited** occupations because they meet the criteria of "**student learner**" **AND** the work performed is **incidental** to their training **and** is for **intermittent and for short periods of time** (Wis. Admin. Code DWD 270.14(3)(c)1 at [http://docs.legis.wisconsin.gov/code/admin\\_code/dwd/270.pdf](http://docs.legis.wisconsin.gov/code/admin_code/dwd/270.pdf)). However, they are **not exempt** from the child labor laws by virtue of being enrolled in a youth apprenticeship program.

While DWD can interpret the law, DWD cannot exonerate employers from liability should an accident occur on the job which results in injury to an employee and a subsequent lawsuit. Determining liability for an accident can only be settled in a court of law. DWD can assure employers that they will not be cited (by DWD) for employing a minor in a prohibited occupation as long as the students are enrolled in a DWD approved youth apprenticeship program and a signed Education/Training Agreement is on file with both the student's high school and the employer. This means that employers will not be assessed treble fines should an injury occur which results in the employer being cited.

Readers should refer to DWD 270.12 and 270.14 [Child Labor Laws](#) and the [Guide to Wisconsin's Child Labor Laws](#) for descriptions and definitions of the occupations or activities which are normally prohibited to minors.

## Health Science -

Youth apprentices who are 16-17 years old can perform the following tasks, *only after appropriate operation/safety training AND only as indicated below*. The **student learner exception** limits the minor to **using hazardous equipment** on an **incidental** basis [less than 5% of their work time] and only **occasionally** [can't be a regular part of their job]. For example, the student learner exception may apply in a situation, such as carpentry, where most of the work is acceptable but once in a while you might need the minor to use a portable saw to cut a piece to fit. Further interpretation or clarification of Child Labor Laws should be directed to the Department of Workforce Development (DWD) Labor Standards Bureau Director at 608-266-6860.

### **CBRFs (Community-Based Residential Facilities)-**

- CBRFs are not required to have licensed practical nurses or registered nurses on the premises at all times. If CNAs, under the age of 18, are employed, they must work on site with another qualified caregiver. The under 18 staff member *may not work alone*. Additionally, a **facility waiver of the 18 year old age requirement must be requested** from the Division of Quality Assurance, DHS, for YA students who are placed in CBRFs. For more information OR to request a waiver, contact the Assisted Living Regional Director for the county in which your facility is located at: [http://www.dhs.wisconsin.gov/rl\\_DSL/Contacts/alsreglmap.htm](http://www.dhs.wisconsin.gov/rl_DSL/Contacts/alsreglmap.htm).

### **Cleaning-**

- Janitorial, Medical, and Laboratory cleaning is allowable for YA students.

### **CNAs (Certified Nursing Assistants)-**

- There are no restrictions on CNAs, under 18 years of age, to perform their *CNA duties* after they have passed their competency test.

### **Cooking ([DWD 270.13\(10\)](#))-**

- YA students can cook with direct supervision.

### **Hospitals ([DWD 270.13\(9\)](#))-**

- YA students may be employed in occupations that involve the personal care of patients in hospitals and nursing homes.

### **Infectious Diseases ([DWD 270.12\(13\)](#))-**

- YA students are prohibited from working with infectious materials introduced purposely to be studied.
- "Studied" does NOT include testing completed in medical settings using Standard Precautions where blood, urine, and other bodily fluids are tested diagnostically.

### **Patient Lifts-**

- YA students can **assist** an adult worker in the operation of floor-based vertical powered patient lift devices, and powered sit-to-stand patient lift devices after completing a CNA training program. See U.S. Department of Labor- Wage and Hour Division, Field Assistance Bulletin 2011-3. ([http://www.dol.gov/whd/FieldBulletins/fab2011\\_3.htm](http://www.dol.gov/whd/FieldBulletins/fab2011_3.htm))

### **X-Rays, Radioactive Substances, and Ionizing Radiation ([DWD 270.12\(23\)](#))-**

- YA students are prohibited from workrooms with exposure to ionizing radiation.
- YA students can work in places with radioactive substances provided:
  - Radioactive substances present in the air average less than 10% of maximum permissible for occupational exposure.
  - The exposure is less than 0.5 rem per year.
  - The substances are NOT mixtures of phosphorescent material and radium, mesothorium, or other material, OR incandescent mantles made from fabric and thorium salt solutions.

### **Student Learner Criteria -**

In order to be considered a student learner, youth apprentices must meet the following criteria:

1. They are enrolled in a youth apprenticeship program approved by DWD;
2. They are enrolled in school and receiving school credit for program participation;
3. They receive appropriate safety instruction at the school and at the workplace;
4. The work performed is under direct and close supervision of a qualified and experienced person;
5. The **work performed in any occupation declared hazardous** is incidental to their training and is for intermittent and short periods of time ([DWD 270.14\(3\)\(c\)1](#)); and
6. There is a schedule of organized and progressive work processes to be performed on the job (i.e. the worksite is following the state curriculum).

### **Hours of Work -**

The hours an apprentice spends working in the program *during* the hours school is in session during the day **DO NOT COUNT** towards the limitation on total hours a minor may work. See the DWD [Child Labor](#) website for applicable hours and times of the day that minors may work in Wisconsin.

## **LIABILITY AND INSURANCE**

As employees of the company, youth apprentices are covered by worker's compensation in the event of injury on the job. Employers should review their specific liability coverage to ensure there are no restrictions on employing minors and/or on coverage of minors operating particular machinery. Schools are not allowed to cover youth apprentices through their own workers' compensation policy while the youth apprentice is an employee of the local business.

As stated previously, DWD and/or local schools cannot exonerate employers from liability if a youth apprentice is injured on the job and a subsequent lawsuit is filed against the employer. Determining liability for an accident can only be settled in a court of law and will be based on the specific circumstances for each case. It is important that a signed ETA be kept on file by both the school and the employer to ensure that employers will not be cited for illegally employing a minor in a prohibited occupation.

### **General Liability –**

An employer is liable for the service provided at their facility. In general an employer has adequate general liability and workers compensation coverage, no additional liability is required as a result of the Youth Apprenticeship program. However, before participating in the program, an employer may wish to consult with their insurance carrier.

### **Transportation –**

In general, the party responsible for transportation is liable in case of an accident. Youth apprentices responsible for their own transportation to and from the worksite are responsible for their own insurance. In instances where the school provides transportation for the youth apprentices, the school is responsible for insurance coverage. Only if the facility provides transportation to and from work for the youth apprentice is the facility responsible for this insurance coverage.

### **Workers Compensation –**

Once a youth apprentice becomes a paid employee they must be covered by the employer's workers compensation insurance.

### **Unemployment Compensation –**

If a youth apprentice is enrolled full-time in a public educational institution and receives school credit for their participation in the YA program, then they are generally NOT eligible to file for unemployment compensation from the employer. Youth apprentices who do NOT meet this criterion may be eligible for unemployment compensation benefits.

### **Worker Displacement –**

No employer may hire a youth apprentice who will displace any currently employed worker, including a partial displacement, such as reduction in the hours of non-overtime work, wages, or employment benefits.

### **Layoffs/Strikes –**

A youth apprentice cannot be hired when any other individual is on temporary layoff, with the clear possibility of recall, from the same or equivalent job OR if the employer has terminated the employment of any regular employee, or otherwise reduced the workforce, with the intention of filling the vacancy created with a youth apprentice. Local bargaining units should determine the status of youth apprentices already working in the facility in the event of a layoff. Youth apprentices may be laid off or transferred to work areas to take the place of laid off workers. Child labor laws prohibit youth apprentices from working in a company where a strike or lockout is in active progress.

### **Collective Bargaining Agreements –**

The youth apprenticeship program should not impair existing contracts for services or collective bargaining agreements. Any youth apprenticeship program that would be inconsistent with the terms of a collective bargaining agreement shall be approved only with the written concurrence of the labor organization and employer involved.